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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,755	12/30/2003	Dougan H. Clarke	1.221.02	2743
<div>7590 04/18/2007 MALLOY & MALLOY, P.A. 2800 S.W. Third Avenue Historic Coral Way Miami, FL 33129</div>			<div>EXAMINER YIP, WINNIE S</div> <div>ART UNIT 3636 PAPER NUMBER</div>	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/18/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/748,755	CLARKE, DOUGAN H.	
	Examiner	Art Unit	
	Winnie Yip	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 13-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on December 13, 2006. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The indicated allowability of claims 2-3 is withdrawn in view of the newly discovered reference(s) to Sweet and Lin. Rejections based on the newly cited reference(s) follow.

Drawings

1. The drawings were received on December 13, 2006. These drawings are disapproved because :

a. The drawings does not show every feature of the invention specified in the specification and in the claims as in compliance with 37 CFR 1.83(a). The newly corrected Fig. 3B fails to show the “split”/separated main hub member 13 including “both the waist 13 and a channel 30” (page 13, lines 16), and the channel 30 being positioned between the top and bottom ledges (32, 34) of the upper and lower portion (12, 14) such that the band 20 and the bracket members 40 can be secured and located on the hub member (13) as described in the specification (the paragraph beginning on page 13, line 11) and the claim 1. No new matter should be entered.

b. The drawings are objected to under 37 CFR 1.84(h)(1) because of the exploded view, i.e. Fig. 2, with the separated parts within the same figure, should be embraced by a bracket or a linking line in order to show the relationship or order of assembly of various parts (a linking line between elements of the bracket member 40 and the channel 30). A proposed

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drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. Claims 1 and 4-5, as better understood, stand rejected under 35 U.S.C. 102(b) as being clearly anticipated by Clarke (US patent No. 6,314,976).

Clarke shows and teaches an umbrella frame comprising a pole (12), ribs (70), strut members (80), a hub assembly (44) including an upper hub member (30) and a main hub member (18), the main hub member (18) (see Fig. 3) slidably mounted on the pole member, the main hub member (18) having a central aperture (20) sized to receive the pole, an upper portion (42) and a lower portion (26), a waist portion (28) disposed between the upper and lower portion, the

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waist portion (28) having a diameter smaller than an upper ledge (24) formed by the upper portion and a lower ledge formed by the lower portion (26) such the waist portion providing a channel disposed between the upper and lower portions, the channel and the lower ledge extending substantially continuously about an exterior periphery of the hub member such that the upper and lower portions are separated by the channel, a plurality of brackets (52) connected to the upper portion (42) of the hub member by fasteners (54), and each bracket being pivotally connected to ends of corresponding strut member (80), a band (116) secured about the channel substantially adjacent the upper portion, and the band providing means for secured a pin member (112) to a retaining pin slot formed on the pole.

3. Claims 1, 3-6, 13-22, as better understood, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sweet, Jr. (US patent No.4,834,126).

Sweet, Jr. shows and teaches an umbrella frame comprising a pole (12), ribs (18), strut members (26), a hub assembly including a upper hub member (20) and a main hub member (22), the main hub member (22) slidably mounted on the pole member, the main hub member (22) having a central aperture sized to receive the pole, an upper portion (58) and a lower portion (56), a channel (52) formed continuously between two ledges of the upper and lower portions, a channel (52) extending substantially continuously about a periphery of the hub member, and the lower portion having a waist portion (56) disposed below the lower ledge and having a diameter smaller than upper and lower portions, a band (51) secured about the channel, and a plurality of brackets (38) secured to the band about the channel and the hub member in

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spaced relation to one another, and the bracket pivotally connected to ends of corresponding strut member (26) .

4. Claims 1, 3-6, 13-22 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lin et al. (US patent No. 5,615,697).

Lin et al. shows and teaches a hub assembly in combination with an umbrella frame having a pole member (1), an upper hub member (3) mounted on the pole, a plurality of ribs (21), a plurality of strut members (22), and a main hub member comprising: a hub member (4) (as similar to the upper hub member as shown in Figs. 8, 15) having a central aperture sized to receive the pole member (1), the hub member having an upper portion (40) and a lower portion (42), the upper portion and lower portion defining upper and lower ledges (40, 41) extending substantially continuously about an exterior periphery of the hub member to define a channel (411) therebetween in an assembled orientation, a band (341) being disposed on the channel, and a plurality of bracket members (43a) secured to the band and the hub member, and the bracket members (43a) having other end having holes (434) for pivotally connecting an end of the corresponding strut member (20), and the lower portion of the hub member having a waist portion (42) having a smaller diameter.

Allowable Subject Matter

5. Claim 12 is allowed.

Response to Arguments

6. Applicant's arguments filed December 13, 2006 with respect to claims being rejected under U.S.C. 102/103 to Zeigler and rejections under U.S. C. 103 to Walker in view of McKee,

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and specifically to the feature for the hub assembly being combination with an umbrella as claimed has been considered and is deemed persuasive. However, this feature was not specifically and previously claimed in claims 1-5. The argument is deemed to be moot in view of the new grounds of rejection. And, the rejections under U.S.C. 102/103 to Zeigler and Walker in view of McKee are withdrawn.

7. Applicant's arguments with respect to the claims being rejected under U.S.C. 102 to Clarke has been fully considered and is deemed not persuasive.

In response to applicant's argument that the Clarke fail to show the upper and lower portion being separated from one another as recited in the rejected claims. Clarke '976 is considered to show the hub member (18) having an upper portion (42) and a lower portion (26) two portions are separated from each other by a channel (28) formed therebetween. The term "separated" does not necessary to be two separated pieces. And, claim 1 and 5-6 do not claims the brackets mounted to either the band at the channel. Therefore, as alternative interpretation, Clarke is now considered to show the hub member having a channel (28) extending continuously about an exterior periphery of the hub member as claimed. The claims are broadly read on the reference to Clarke and other new found references as discussed set forth above. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, the rejection to Clarke is deemed proper and stand granted.

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Citations

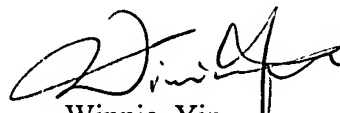
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Japanese Patent No. 2002-142824 and Wu (EP 897678) teach various hub members having two separated portions as similar to the claimed invention.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip
Primary Examiner
Art Unit 3636

wsy
April 13, 2007